

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1891.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 660.]

The Committee on Military Affairs, to which was referred the bill (S. 660) to grant an honorable discharge to John Lyons, have duly considered the same and submit the following report:

This bill directs the Secretary of War to correct the military record and grant an honorable discharge to John Lyons, private, Company G, Ninth Connecticut Volunteers.

There was referred to your committee with the bill a stereotyped petition with printed heading, signed by Hannah Lyons by her attorney, and not verified by affidavit, and in this petition the widow states, in substance, that John Lyons, whilst suffering from fever and ague, left his command on the 6th of June, 1864, and went home for the purpose of recruiting his health, intending to return to his regiment on the first favorable opportunity; that his sickness increased and the period of his absence from his regiment was thereby prolonged, so that when he was sufficiently recovered he was afraid to rejoin his command; that desiring to further serve the cause of his country, he subsequently enlisted as a private in Company C, One hundred and second Pennsylvania Volunteers, on the 5th of April, 1865, under the name of John Dinan, and that he served faithfully until the 28th of June, 1865, when he was honorably discharged with his company; and she states that on the 24th of September, 1889, she filed an application in the War Department for the removal of the charge of desertion from said soldier which was refused, and she prays for relief by Congress.

Your committee referred the bill to the Secretary of War for information and report, and in reply received the following letter and accompanying report:

WAR DEPARTMENT,  
*Washington City, July 10, 1890.*

SIR: In reply to your request of the 9th instant for information upon Senate bill 660, Fifty-first Congress, first session, to provide for the relief of John Lyons, Company G, Ninth Connecticut Volunteers, I have the honor to inclose a report from the officer in charge of the Record and Pension Division of this Department.

Very respectfully,

L. A. GRANT,  
*Assistant Secretary of War.*

HON. JAMES R. HAWLEY,  
*Chairman Committee on Military Affairs, U. S. Senate.*

*Case of John Lyons, late private Company G, Ninth Connecticut Volunteers, alias John Dinan, late private Company C, One hundred and second Pennsylvania Volunteers.*

John Lyons, private, Company G, Ninth Connecticut Volunteers, was enrolled October 12, 1861, to serve 3 years, and appears properly accounted for to October 31, 1863.

Company muster roll for November and December, 1863, reports him absent without leave; roll for January and February, 1864, reports him present (period of absence or date of return to company from absence without leave not stated), reenlisted as a veteran volunteer January 4, 1864.

He deserted June 1, 1864, at New Haven, Conn., and did not rejoin his command, but again enlisted as a substitute April 5, 1865, under the name of John Dinan, in Company C, One hundred and second Pennsylvania Volunteers for one year, and served with this latter organization until mustered out with it, June 28, 1865.

Hannah Lyons swears that she is the widow of the said John Lyons and that when he left the Ninth Connecticut Volunteers in June, 1864, it was without any intention of deserting, but as she understood it, for the purpose of reenlisting in the One hundred and second Pennsylvania Volunteers.

Application for the removal of the charge of desertion was denied March 24, 1888, on the grounds that the soldier's enlistment in the One hundred and second Pennsylvania Volunteers while in desertion from the Ninth Connecticut Volunteers was in violation of the 22d (now 50th) article of war; that he became a deserter by operation of law, and that the law views him as in a constant state of desertion during the whole period of his second enlistment.

Application was again denied September 27, 1889, by indorsement to the attorney on the ground that his absence from date of desertion to reenlistment having exceeded 4 months, the case is not embraced within the provisions of the act of March 2, 1859.

The status of the case has not been changed by any subsequent legislation.

Respectfully submitted,

F. C. AINSWORTH,

*Captain and Assistant Surgeon U. S. Army.*

Record and Pension Division, July 10, 1890.

THE SECRETARY OF WAR.

This record shows that the soldier deserted June 1, 1864, at New Haven, Conn.; never rejoined his company and never reported to his company officers, so far as the record shows, any reason why he did not do so; and 10 months thereafter, under a fictitious name, and when the war was practically closed, he enlisted in Company C, One hundred and second Pennsylvania Volunteers as a substitute and for pay.

He seems to have been satisfied with his military record during his lifetime, for he never made application for the removal of the charge. His widow, in her application for the removal of the charge, states that when the soldier left the Ninth Connecticut Volunteers, in June, 1864, it was without any intention of deserting, but, as she understood, for the purpose of reenlisting in the One hundred and second Pennsylvania Volunteers. This is a very different statement from what is made in the petition by her attorney.

No sufficient grounds have been shown for the removal of this charge of desertion. No reason has been shown why he did not rejoin his command. It is not probable that the alleged fever and ague continued for 10 months.

Your committee, therefore, report the bill back to the Senate adversely, and recommend that it be indefinitely postponed, and the relief prayed for be not granted.